

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMIE CLARK, on Behalf of Herself and all
Others Similarly Situated,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

3:08-CV-00158-LRH-VPC

ORDER

Upon review of the Notice of Removal (#1) and the First Amended Class Action Complaint and Jury Demand (#14), this court is uncertain whether it has subject matter jurisdiction over this case. Defendant's notice of removal states that "Plaintiff is a citizen of Nevada and MetLife is a citizen of New York." (Notice of Removal (#1) ¶ 15.) Plaintiff alleges in her amended complaint that "Defendant Met Life has its principal place of business in New York." (First Am. Compl. (#14) ¶ 4.)

These allegations are insufficient because they omit any mention of Met Life's state of incorporation.¹ See *Fifty Associates v. Prudential Ins. Co.*, 446 F.2d 1187, 1190 (9th Cir. 1970)

¹Although the Class Action Fairness Act creates subject matter jurisdiction when "any member of a class of plaintiffs is a citizen of a State different from any defendant[.]" 28 U.S.C. § 1332(d)(2)(A), the only parties mentioned in the notice of removal and amended complaint are Jamie Clark and Metropolitan Life

1 (holding that allegations were insufficient to establish diversity jurisdiction when they failed to set
2 forth a corporation's state of incorporation). As the removing party, Defendant has the burden of
3 establishing federal jurisdiction. *See Wilson v. Republic Iron & Steel. Co.*, 257 U.S. 92, 97 (1921).
4 The court will therefore order proof on the issue of whether the citizenship of any member of
5 Plaintiff's purported class is different from Defendant's citizenship. *See* 28 U.S.C. 1332(d)(2)(A).

6 IT IS THEREFORE ORDERED that Defendant is granted 10 days to establish whether the
7 parties in this case satisfy 28 U.S.C. § 1332(d)(2)(A). Plaintiff is granted 5 days to file a response.
8 No reply is required.

9 IT IS SO ORDERED.

10 DATED this 26th day of January 2009.



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13 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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Insurance Company.